

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
U.S. COURTHOUSE
402 E. STATE STREET
TRENTON, NEW JERSEY 08608

Hon. Michael B. Kaplan
United States Bankruptcy Judge

609-989-0478
609-989-2259 Fax

July 2, 2012

James G. Aaron, Esq.
ANSELL GRIMM & AARON
1500 Lawrence Avenue
CN-7807
Ocean, NJ 07712

Stephen B. McNally, Esq.
McNALLY & ASSOCIATES, L.L.C.
93 Main Street
Newton, New Jersey 07860

Barry Frost
TEICH GROH
691 State Highway 33
Trenton, NJ 08619-4407

RE: In re Foster, 08-14400, Motion for Relief from the Automatic Stay

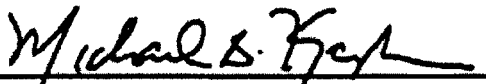
Dear Counsel:

In reviewing this matter, a new wrinkle confronts the Court. It appears that the underlying lease in this case was rejected under the Debtor's Chapter 13 Plan, subsequently confirmed by this Court. As a result, all alleged obligations owing under the lease constitute pre-petition claims to be addressed under the Debtor's plan. As there is no longer a lease in place, the Debtor's post-petition obligations must be bottomed on a judicially determined use and occupancy basis. Whether the Schultz estate or Mr. Schultz is entitled to collect such post-petition use and occupancy charges is inextricably intertwined with the issues raised by the Debtor as to the alleged fraudulent transfer of the property to Mr. Schultz. Moreover, this Court is not prepared at this juncture to rule that the doctrines of set-off or recoupment would not serve as a bar to collection of outstanding post-petition use and occupancy charges. In saying this, the Court denies as premature Mr. Schultz's Motion for Relief from the Automatic Stay.

The Court is cognizant, however, that the Debtor has lived in the subject apartment without paying rent or making a mortgage payment since the filing of her bankruptcy. The Court finds it appropriate to direct the Debtor to make monthly use and occupancy payments, in

escrow, if she intends to remain in the property. Accordingly, after comparing rents in Hoboken of similar sized apartments located near 223 Bloomfield St., the Court has determined that an appropriate monthly rate for Debtor's use and occupancy of the property is \$2,136/month (See attached supporting documentation). Therefore, the Court orders that the maintenance of the Automatic Stay is conditioned upon the Debtor's payment of \$2,136/month for the use and occupancy of the apartment, commencing July 15, 2012, until the Adversary Cases under docket numbers 12-01002 and 08-0220 are resolved. The Court further directs Mr. Schultz's Chapter 7 Trustee to hold these payments in escrow until the conclusion of the aforementioned adversary proceedings, or the Trustee may authorize Debtor's counsel to hold said payments in his attorney trust account until such resolution. Debtor is directed to submit a form of order reflecting the Court's rulings.

Yours very truly,



Honorable Michael B. Kaplan
United States Bankruptcy Judge

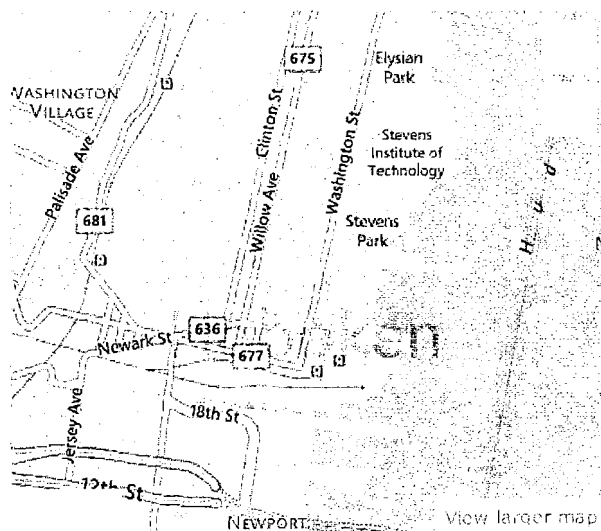
Homes New Jersey Hoboken real estate

Views: 305

Home shopping just got better! Map your friends and get their advice on neighborhoods. [Map my friends](#)**223 Bloomfield St APT 4D****Map** Bird's Eye Street View**Not for Sale**

Zestimate: \$339,700
 Rent Zestimate: \$2,136/mo
 Est. Mortgage: \$1,217/mo
 See current rates on Zillow
 775

Beds:	1
Baths:	1
Sqft:	730
Lot:	721 sq ft / 0.02 acres
Type:	Multi Family
Year built:	1920
Last sold:	Apr 2008 for \$420,000
Parking:	Garage - Detached
Cooling:	Central
Heating:	Other
Fireplace:	--

[More facts](#)

This 730 square foot multi family home has 1 bedrooms and 1.0 bathrooms. It is located at 223 Bloomfield St Hoboken, New Jersey. The nearest schools are The Elysian Charter School of Hoboken, A. J. Demarest and Hoboken High School.

What I love

Great light (southern exposure); Excellent closet space;
 Hardly any noise; Backdoor on Washington Street in
 Hoboken

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Zestimates

	Value	Range	30-day change	\$/sqft	Last updated
Zestimate	\$339,700	\$197K - \$588K	+\$5,400	\$465	06/30/2012
Rent Zestimate	\$2,136/mo	\$1.7K - \$2.7K/mo	-\$28	\$2.93	06/25/2012
Owner Estimate	Post your own estimate				

Zestimate Rent Zestimate [more](#)1 year 5 years **10 years**

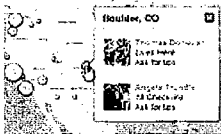
Know

Price History

Date	Description	Price	Change	\$/sqft	Source
04/07/2008	Sold	\$420,000	-6.5%	\$575	Public Record
12/11/2007	Listed for sale	\$449,000	--	\$615	Owner

Tax HistoryFind assessor information on the [county website](#).

Year	Property taxes	Change	Tax assessment	Change
2011	\$5,884	5.7%	\$124,000	--
2010	\$5,566	4.6%	\$124,000	--
2009	\$5,323	23.0%	\$124,000	--
more				

Neighborhood**Walk Score™** 100/100 (Walker's Paradise)[View larger](#)**Friends Nearby****Home shopping just got better**

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[Map my friends](#)**Monthly Payment**

Home price

\$339,700

Percent down: 20%

(\$68k)

Program:

30yr fixed 3.479% ▼

See personalized rates

Estimated Payment

\$1,645

Principal & Interest

\$1,217

Taxes

\$368

Homeowners Insurance

\$60

Mortgage Insurance

\$0

